

## Department of Veterans Affairs

## § 39.82

for the Tribal Organization on trust land.

(3) The State or Tribal Organization possesses legal authority to apply for the grant.

NOTE TO PARAGRAPH (C)(3): In any case where a Tribal Organization is applying for a grant for a cemetery on land held in trust for more than one Indian Tribe, written assurance that the Tribal Organization possesses legal authority to apply for the grant includes certification that the Tribal Organization has obtained the approval of each such Indian Tribe.

(4) The State or Tribal Organization will obtain approval by VA of the final specifications before the project is advertised or placed on the market for bidding; the project will achieve VA's national shrine standards with respect to cleanliness, height and alignment of headstones and markers, leveling of gravesites, or turf conditions in accordance with the application and approved plans and specifications; the State or Tribal Organization will submit to the Director of the Veterans Cemetery Grants Service, for prior approval, changes that alter any cost of the project; and the State or Tribal Organization will not enter into a contract for the project or undertake other activities until all the requirements of the grant program have been met.

(d) Depending on the scope of the project, the VCGS will work with the State or Tribal Organization to determine which, if any, of the following are required:

(1) Compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 *et seq.*).

(2) Compliance with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submission of Standard Form 424D (Assurances—Construction Programs).

(3) A site Environmental Assessment to determine whether an Environmental Impact Statement will be necessary as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(e) Upon receipt of a complete preapplication for a grant, including all necessary assurances and all re-

quired supporting documentation, VA will determine whether the preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State or Tribal Organization of any nonconformity. If the preapplication does conform, VA shall notify the State or Tribal Organization that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in § 39.3(d).

(Authority: 25 U.S.C. 450b(1); 38 U.S.C. 501, 2408, 2411)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040-0004, 4040-0008, 4040-0009, and 2900-0559)

[75 FR 34005, June 16, 2010, as amended at 77 FR 4477, Jan. 30, 2012]

### § 39.82 Plan preparation.

(a) The State or Tribal Organization must successfully complete its plan preparation under this section before submitting a grant application for an Operation and Maintenance Project. The State or Tribal Organization may be required to undertake some or all of the following requirements of this section. After submitting all necessary plans and specifications to the VCGS and obtaining approval for the State or Tribal Organization to solicit for the Operation and Maintenance Project contract bids, the State or Tribal Organization shall:

(1) Obtain bids and determine the successful bidder;

(2) Establish procedures for determining that costs are reasonable and necessary and can be allocated in accordance with the provisions of OMB Circular No. A-87 and submit documentation of such determinations to VA; and

(3) Comply with the uniform requirements for grants-in-aid to State, Tribal and local governments prescribed by OMB Circular No. A-102, Revised.

(b) Depending on the scope of the project, the VCGS will work with the

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State or Tribal Organization to determine which of the following will be required prior to submission of an application. As determined by VA, these may include:

(1) A boundary and site survey comprising a survey and legal description of the existing State or Tribal cemetery site;

(2) Project drawings indicating the cemetery section(s) to be impacted by the Operation and Maintenance Project, gravesite section layout with permanent section monument markers and lettering system, and the total number of gravesites to be impacted;

(3) Project specifications (to be used for bid purposes), which shall include the invitation for bid, cover or title sheet, index, general requirements, form of bid bond, form of agreement, performance and payment bond forms, and detailed descriptions of materials and workmanship for the work to be performed to meet VA's national shrine standards;

(4) A detailed estimate of the total cost of the work to be performed under the contract; or

(5) A site Environmental Assessment meeting the provisions of §39.34(b) to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332), as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(c) If VA determines that the project's plans and specifications comply with the terms and conditions prescribed by VA, VA will send the State or Tribal Organization a written letter of approval indicating that the project's plans and specifications comply with the terms and conditions as prescribed by VA. This does not constitute approval of the contract documents. It is the responsibility of the State or Tribal Organization to ascertain that all State and Federal requirements have been met and that the

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drawings and specifications are acceptable for bid purposes.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0559)

[75 FR 34005, June 16, 2010, as amended at 77 FR 4477, Jan. 30, 2012]

### § 39.83 Conferences.

(a) *Planning conference.* The VCGS may require planning conferences for Operation and Maintenance Projects, primarily to ensure that the State or Tribal Organization becomes oriented to VA's national shrine standards, procedures, requirements, and any technical comments pertaining to the project. These conferences will normally occur over the telephone.

(b) *Additional conferences.* At any time, VA may recommend an additional telephone conference to provide an opportunity for the State or Tribal Organization to discuss with VA officials the requirements for an Operation and Maintenance Project grant.

(Authority: 38 U.S.C. 501, 2408)

[77 FR 4478, Jan. 30, 2012]

### § 39.84 Application requirements.

For an Operation and Maintenance Project to be considered for grant funding under this subpart, the State or Tribal Organization must submit an application (as opposed to a preapplication) consisting of the following:

(a) Standard Form 424 (Application for Federal Assistance) with the box labeled "application" marked;

(b) Standard Form 424C (Budget Information), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(c) A copy of itemized bid tabulations; and

(d) Standard Form 424D (Assurances—Construction Program).

(e) VA Form 40–0895–11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate